



House of Representatives

General Assembly

File No. 51

January Session, 2009

House Bill No. 6334

House of Representatives, March 10, 2009

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT DESIGNATING TITLE SEARCHERS AS INDEPENDENT CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (5) of subsection (a) of section 31-222 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2009*):

4 (5) No provision of this chapter, except section 31-254, shall apply to
5 any of the following types of service or employment, except when
6 voluntarily assumed, as provided in section 31-223:

7 (A) Service performed by an individual in the employ of his son,
8 daughter or spouse, and service performed by a child under the age of
9 eighteen in the employ of his father or mother;

10 (B) Service performed in the employ of the United States
11 government, any other state, any town or city of any other state, or any
12 political subdivision or instrumentality of any of them; except that, to

13 the extent that the Congress of the United States permits states to
14 require any instrumentalities of the United States to make
15 contributions to an unemployment fund under a state unemployment
16 compensation law, all of the provisions of this chapter shall be
17 applicable to such instrumentalities and to services performed for such
18 instrumentalities; provided, if this state is not certified for any year by
19 the Secretary of Labor under Section 3304 of the Federal Internal
20 Revenue Code, the contributions required of such instrumentalities
21 with respect to such year shall be refunded by the administrator from
22 the fund in the same manner and within the same period as is
23 provided in sections 31-268, 31-269, 31-270 and 31-271 with respect to
24 contributions erroneously collected;

25 (C) Service with respect to which unemployment compensation is
26 payable under an unemployment compensation plan established by an
27 Act of Congress, provided the administrator is authorized to enter into
28 agreements with the proper agencies under such Act of Congress, to
29 provide reciprocal treatment to individuals who have, after acquiring
30 potential rights to benefits under this chapter, acquired rights to
31 unemployment compensation under such Act of Congress, or who
32 have, after acquiring potential rights to unemployment compensation
33 under such Act of Congress, acquired rights to benefits under this
34 chapter, and provided further, in computing benefits the administrator
35 shall disregard all wages paid by employers who fall within the
36 definition of "employer" in Section 1(a) of the Federal Railroad
37 Unemployment Insurance Act;

38 (D) Service performed in this state or elsewhere with respect to
39 which contributions are required and paid under an unemployment
40 compensation law of any other state;

41 (E) Service not in the course of the employer's trade or business
42 performed in any calendar quarter by an employee, unless the cash
43 remuneration paid for such service is fifty dollars or more and such
44 service is performed by an individual who is regularly employed by
45 such employer to perform such service. For purposes of this

46 subparagraph, an individual shall be deemed to be regularly
47 employed by an employer during a calendar quarter only if (i) on each
48 of some twenty-four days during such quarter such individual
49 performs for such employer for some portion of the day service not in
50 the course of the employer's trade or business; or (ii) such individual
51 was so employed by such employer in the performance of such service
52 during the preceding calendar quarter;

53 (F) Service performed in any calendar quarter in the employ of any
54 organization exempt from income tax under Section 501(a) of the
55 Internal Revenue Code of 1986, or any subsequent corresponding
56 internal revenue code of the United States, as from time to time
57 amended or under Section 521 of said code excluding any organization
58 described in Section 401(a) of said code, if the remuneration for such
59 service is less than fifty dollars;

60 (G) Service performed in the employ of a school, college, or
61 university if such service is performed (i) by a student who is enrolled
62 and is regularly attending classes at such school, college or university,
63 or (ii) by the spouse of such a student, if such spouse is advised at the
64 time such spouse commences to perform such service, that (I) the
65 employment of such spouse to perform such service is provided under
66 a program to provide financial assistance to such student by such
67 school, college or university, and (II) such employment will not be
68 covered by any program of unemployment insurance;

69 (H) Service performed as a student nurse in the employ of a hospital
70 or a nurses' training school chartered pursuant to state law by an
71 individual who is enrolled and is regularly attending classes in such
72 nurses' training school, and service performed as an intern in the
73 employ of a hospital by an individual who has completed a four years'
74 course in a medical school chartered or approved pursuant to state
75 law;

76 (I) Service performed by an individual under the age of eighteen in
77 the delivery or distribution of newspapers or shopping news, not
78 including delivery or distribution to any point for subsequent delivery

79 or distribution;

80 (J) Service performed by an individual who is enrolled, at a
81 nonprofit or public educational institution which normally maintains a
82 regular faculty and curriculum and normally has a regularly organized
83 body of students in attendance at the place where its educational
84 activities are carried on, as a student in a full-time program, taken for
85 credit at such institution, which combines academic instruction with
86 work experience, if such service is an integral part of such program,
87 and such institution has so certified to the employer, except that this
88 subparagraph shall not apply to service performed in a program
89 established for or on behalf of an employer or group of employers;

90 (K) Service performed by an individual as an insurance agent, other
91 than an industrial life insurance agent, and service performed by an
92 individual as a real estate salesperson, if all such service is performed
93 for remuneration solely by way of commission;

94 (L) Service performed in the employ of a hospital, if such service is
95 performed by a patient of the hospital, as defined in subsection (h) of
96 this section;

97 (M) Service performed by an individual in the employ of any town,
98 city or other political subdivision, provided such service is performed
99 in lieu of payment of any delinquent tax payable to such town, city or
100 other political subdivision;

101 (N) Service performed by an individual as an outside sales
102 representative of a for-profit travel agency if substantially all of such
103 service is performed outside of any travel agency premises, and all
104 such service is performed for remuneration solely by way of
105 commission. For purposes of this subparagraph, an "outside sales
106 representative" means an individual whose services to a for-profit
107 travel agency are performed under such travel agency's Airlines
108 Reporting Corporation accreditation, or the International Airlines
109 Travel Agent Network endorsement; [and]

110 (O) Service performed by an individual as a real estate title searcher
 111 or title examiner, if such service is performed for remuneration solely
 112 by way of payment on a per title search basis; and

113 ~~[(O)]~~ (P) Service performed by the operator of an escort motor
 114 vehicle, for an oversize vehicle, overweight vehicle or a vehicle with a
 115 load traveling upon any Connecticut highway pursuant to a permit
 116 required by section 14-270, and the regulations adopted pursuant to
 117 said section, provided the following conditions are met:

118 (i) The service is provided by an individual operator who is
 119 engaged in the business or trade of providing such escort motor
 120 vehicle;

121 (ii) The operator is, and has been, free from control and direction by
 122 any other business or other person in connection with the actual
 123 performance of such services;

124 (iii) The operator owns his or her own vehicle, and statutorily
 125 required equipment, and exclusively employs this equipment in
 126 providing such services; and

127 (iv) The operator is treated as an independent contractor for all
 128 purposes, including, but not limited to, federal and state taxation,
 129 workers' compensation, choice of hours worked and choice to accept
 130 referrals from multiple entities without consequence.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	31-222(a)(5)

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Labor Dept.	UCF - Revenue Loss	See Below	See Below

Note: UCF=Unemployment Compensation Fund

Municipal Impact: None

Explanation

The bill could result in a revenue loss to the Unemployment Compensation Fund. If real estate title searchers or title examiners, under certain conditions, are considered independent contractors, the entity that hires such individuals would be exempt from paying unemployment taxes on their pay. The amount of employer taxes currently paid related to title searchers and examiners is unknown at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of title searchers considered to be independent contractors.

OLR Bill Analysis**HB 6334*****AN ACT DESIGNATING TITLE SEARCHERS AS INDEPENDENT CONTRACTORS.*****SUMMARY:**

This bill exempts real estate title searchers or title examiners from unemployment compensation eligibility and their employers from paying unemployment taxes on their work if the searchers or examiners work for remuneration solely on a per title search basis. The bill permits the parties to assume the responsibilities under the unemployment compensation law voluntarily.

EFFECTIVE DATE: October 1, 2009

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 11 Nay 0 (02/26/2009)